

Chapter 02 National or Regional Headquarters Credit and National or Regional Headquarters Relocation Tax Credit

100 National or Regional Headquarters Tax Credit

- 101 A credit is available to any company transferring or establishing a national or regional headquarters from within or outside the State of Mississippi and creating a minimum of twenty (20) jobs at the headquarters. A credit is also available to any company expanding or making additions to its national or regional headquarters already in Mississippi after January 1, 2013, and creating a minimum of twenty (20) jobs at the headquarters. The minimum increase of twenty (20) jobs must occur within one (1) year.
- 102 The amount of the credit is \$500.00 for each net new full time employee for the first five (5) years. The amount of the credit is increased to \$1,000.00 provided the employee's salary (excluding benefits not subject to Mississippi income tax) is one hundred twenty-five percent (125%) of the average annual wage of the state. If the employee's salary (excluding benefits not subject to Mississippi income tax) is two hundred percent (200%) of the average annual wage of the state, the credit is increased to \$2,000.00 for that employee. The average annual wage is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.
- 103 A full-time employee is an employee who works at least thirty-five (35) hours a week. To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax. Part-time jobs cannot be combined to add up to a full-time job.
- 104 No enterprise in the business of transporting, handling, storing, processing or disposing of hazardous waste is eligible to receive these credits. No regional or national sales office is eligible for these credits.
- 105 A national headquarters is that office or location of a multi-state business where managerial, professional, technical and administrative personnel are domiciled and employed. It is the location where the centralized functions such as financial, legal, technical and personnel functions are performed. The function and purpose of the national headquarters is to plan, direct and control all aspects of the organization's operations and it has final authority over all regional offices, operating facilities or any other offices of the business enterprise. The national headquarters is subordinate only to the ownership of the organization or its representatives.
- 106 A regional headquarters is one of several management offices or facilities of a multi-state business that is responsible for planning, directing and controlling all aspects of the business operations within a sub-divided area of the United States. A regional headquarters performs a function that is separate from the management of operational facilities within the region. A regional headquarters performs functions similar to the national headquarters, but within a more limited area. It has final authority over all matters within its region and is subordinate only to the national headquarters.

- 107 Before the credit is granted, the taxpayer must show that the headquarters will have officers and other high level employees with the support staff normally associated with a headquarters. The support staff for the headquarters is also included in the computation of the credit. The support staff are those full time employees required to assist management and other headquarters personnel to perform functions that are unique to, or required by, the headquarters operation. The classification of support personnel as headquarters employees is dependent on their duties being in direct relationship to the functions of the office or facility and not solely on their physical presence at the location. Employees who are physically present at the location, but whose work is not related to the office functions of the headquarters, such as salesmen, truck drivers, janitors, etc., are not considered headquarters personnel and may not be counted toward the minimum twenty (20) jobs to be created.
- 108 Companies that transfer full time headquarters employees into the state that are employed in Mississippi for less than twelve (12) months will be allowed a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the number of months the employee is employed in this state divided by twelve (12).
- 109 If the number of jobs falls below the twenty (20) required within a year, the credit is lost for that year and cannot be recovered. If the minimum number of jobs is achieved again, the credit is available for the remainder of the original five (5) year period. The original period is not extended.
- 110 If the salaries that originally qualified for the additional amount of credit fall below the required average annual state wage, the amount of credit must be adjusted for that year and cannot be recovered. But, if the salaries once again meet the criteria, the additional credit is available for the remainder of the original five (5) year period.
- 111 The total of the Jobs Tax Credit, the National or Regional Headquarters Credit, the National or Regional Headquarters Relocation Credit and the Research & Development Skills Credit is limited to fifty percent (50%) of the Mississippi Income Tax liability. The unused portions can be carried forward for up to five (5) years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits. The credit is not refundable.
- 112 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused credit may be transferred and continued by any transferee of the business enterprise. The Department of Revenue shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.
- 113 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The

tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.

- 114 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.
- 115 This credit is authorized under Miss. Code Ann. Section 57-73-21(5).
- 116 (Reserved)
- 200 National or Regional Headquarters Relocation Tax Credit
- 201 A relocation income tax credit is available to any company that transfers or relocates its national or regional headquarters to Mississippi from outside Mississippi in an amount equal to the actual relocation costs paid by the company. A minimum of twenty (20) jobs must be created in order to qualify for the credit.
- 202 Relocation costs for which the relocation income tax credit may be taken includes nondepreciable expenses that are necessary to relocate headquarters employees to the national or regional headquarters. These qualified relocation expenses include travel expenses for employees and members of their households to and from Mississippi in search of homes and moving expenses to relocate furnishings, household goods and personal property of the employees and members of their households and other similar nondepreciable relocation expenses.
- 203 The relocation credit is applied to the tax year in which the relocation costs are paid. The maximum cumulative amount of tax credits that may be claimed by all taxpayers claiming a relocation tax credit in any one (1) fiscal year cannot exceed One Million Dollars (\$ 1,000,000.00), exclusive of credits that might be carried forward from previous years. A company may not receive a credit for the relocation of an employee more than one (1) time in a twelve-month period for that employee.
- 204 This credit may be used in combination with any of the other credits. The total of the Jobs Tax Credit, the National or Regional Headquarters Tax Credit, the National or Regional Headquarters Relocation Tax Credit and the Research and Development Skills Tax Credit is limited to fifty percent (50%) of the income tax liability attributable to the income derived from operations in this state for that year. Any excess credit amount can be carried forward for up to five (5) years from the original year in which the excess credit could not be used. The credit is not refundable.
- 205 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue

may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.

206 This credit is authorized under Miss. Code Ann. Section 57-73-21(7).

207 (Reserved)

300 Applying for the Credits and Claiming the Credits

301 To apply for the credits, an Application for Certification of Economic Incentives and a letter requesting the credit must be submitted. The letter must contain sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. A list of eligible relocation expenses must be provided when applying for the National or Regional Headquarters Relocation Tax Credit. A letter will be issued informing the taxpayer if the applicable credit is granted.

302 Compliance with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964 is required in order to qualify for these credits.

303 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.

304 (Reserved)

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~~101~~**102**The amount of the credit is \$500.00 for each net new full time employee for the first five (5) years. The amount of the credit is increased to \$1,000.00 provided the employee's salary (excluding benefits not subject to Mississippi income tax) is one hundred twenty-five percent (125%) of the average annual wage of the state. If the employee's salary (excluding benefits not subject to Mississippi income tax) is two hundred percent (200%) of the average annual wage of the state, the credit is increased to \$2,000.00 for that employee. The average annual wage is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

103 A full-time employee is an employee who works at least thirty-five (35) hours a week. To be used in the credit computation, the employee must be located in Mississippi and subject to withholding tax. Part-time jobs cannot be combined to add up to a full-time job.

~~102~~**104**No enterprise in the business of transporting, handling, storing, processing or disposing of hazardous waste is eligible to receive these credits. No regional or national sales office is eligible for these credits. Any type of business may qualify for the credit as long as the other criteria are met, but a national or regional sales office does not qualify for the credit.

~~103~~**105**A national headquarters is that office or location of a multi-state business where managerial, professional, technical and administrative personnel are domiciled and employed. It is the location where the centralized functions such as financial, legal, technical and personnel functions are performed. The function and purpose of the national headquarters is to plan, direct and control all aspects of the organization's operations and it has final authority over all regional offices, operating facilities or any other offices of the business enterprise. The national headquarters is subordinate only to the ownership of the organization or its representatives.

~~104~~**106**A regional headquarters is one of several management offices or facilities of a multi-state business that is responsible for planning, directing and controlling all aspects of the business operations within a sub-divided area of the United States. A regional headquarters performs a function that is separate from the management of operational facilities within the region. A regional headquarters performs functions similar to the national headquarters, but within a more limited area. It has final authority over all matters within its region and is subordinate only to the national headquarters.

~~405~~107 Before the credit is granted, the taxpayer must show that the headquarters will have officers and other high level employees with the support staff normally associated with a headquarters. The support staff for the headquarters is also included in the computation of the credit. The support staff are those full time employees required to assist management and other headquarters personnel to perform functions that are unique to, or required by, the headquarters operation. The classification of support personnel as headquarters employees is dependent on their duties being in direct relationship to the functions of the office or facility and not solely on their physical presence at the location. Employees who are physically present at the location, but whose work is not related to the office functions of the headquarters, such as salesmen, truck drivers, janitors, etc., are not considered headquarters personnel and may not be counted toward the minimum twenty (20) jobs to be created.

~~406~~108 Companies that transfer full time headquarters employees into the state that are employed in Mississippi for less than twelve (12) months will be allowed a pro-rated portion of the yearly credit in the first and last years. The amount of the credit is pro-rated based on the number of months the employee is employed in this state divided by twelve (12).

109 If the number of jobs falls below the twenty (20) required within a year, the credit is lost for that year and cannot be recovered. If the minimum number of jobs is achieved again, the credit is available for the remainder of the original five (5) year period. The original period is not extended.

110 If the salaries that originally qualified for the additional amount of credit fall below the required average annual state wage, the amount of credit must be adjusted for that year and cannot be recovered. But, if the salaries once again meet the criteria, the additional credit is available for the remainder of the original five (5) year period.

~~407~~111 The total of the Jobs Tax Credit, the National or Regional Headquarters Credit, the National or Regional Headquarters Relocation Credit and the Research & Development Skills Credit is limited to fifty percent (50%) of the Mississippi Income Tax liability. The unused portions can be carried forward for up to five (5) years from the original year in which the excess credit could not be used, but you may use the oldest year's unexpired credit first. They may be used in combination with any of the other credits. The credit is not refundable.

~~408~~112 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused ~~job-tax~~ credit may be transferred and continued by any transferee of the business enterprise. The Department of Revenue shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.

~~409 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.~~110

113 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-

Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.

~~114~~114 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.

115 This credit is authorized under Miss. Code Ann. Section 57-73-21(5).

116 (Reserved)

~~112~~ ~~The credit is not refundable.~~

200 National or Regional Headquarters Relocation Tax Credit

201 A relocation income tax credit is available to any company that transfers or relocates its national or regional headquarters to Mississippi from outside Mississippi in an amount equal to the actual relocation costs paid by the company. A minimum of twenty (20) jobs must be created in order to qualify for the credit.

202 Relocation costs for which the relocation income tax credit may be taken includes nondepreciable expenses that are necessary to relocate headquarters employees to the national or regional headquarters. These qualified relocation expenses include travel expenses for employees and members of their households to and from Mississippi in search of homes and moving expenses to relocate furnishings, household goods and personal property of the employees and members of their households and other similar nondepreciable relocation expenses.

203 The relocation credit is applied to the tax year in which the relocation costs are paid. The maximum cumulative amount of tax credits that may be claimed by all taxpayers claiming a relocation tax credit in any one (1) fiscal year cannot exceed One Million Dollars (\$ 1,000,000.00), exclusive of credits that might be carried forward from previous years. A company may not receive a credit for the relocation of an employee more than one (1) time in a twelve-month period for that employee.

204 This credit may be used in combination with any of the other credits. The total of the Jobs Tax Credit, the National or Regional Headquarters Tax Credit, the National or Regional Headquarters Relocation Tax Credit and the Research and Development Skills Tax Credit is limited to fifty percent (50%) of the income tax liability attributable to the income derived from operations in this state for that year. Any excess credit amount can be carried forward for up to five (5) years from the original year in which the excess credit could not be used. The credit is not refundable.

- 205 If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Commissioner of the Department of Revenue may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years. The extension must be authorized in writing by the Commissioner.
- 206 This credit is authorized under Miss. Code Ann. Section 57-73-21(7).
- 207 (Reserved)
- 300 Applying for the Credits and Claiming the Credits
- 113301 To apply for this credit:
1. ~~To apply for the credits, Before the headquarters is transferred, you must submit an Application for Certification of Economic Incentives and a letter requesting the credit must be submitted. The letter must contain~~ with sufficient information to allow a determination of whether the location qualifies as a national or regional headquarters. ~~Sufficient information includes a list of all facilities inside and outside Mississippi that operate under the company's name, and a description of the activities that will be carried out at the location that justify its designation as a headquarters. You must also furnish a list of employees with their titles, job descriptions, job responsibilities, educational requirements, experience requirements and salaries to justify the credit. A list of eligible relocation expenses must be provided when applying for the National or Regional Headquarters Relocation Tax Credit. A letter of authorization will be issued informing the taxpayer if the applicable credit is granted.~~
2. ~~You must attach a copy of the letter giving authority for the credit and a schedule of computation to the state income/franchise tax return.~~
- 302 Compliance with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964 is required in order to qualify for these credits.
- 303 For detailed instructions concerning the application process or claiming the credits see the Mississippi Tax Incentives, Exemptions and Credits Book.
- 304 ~~This credit is authorized under Miss. Code Ann. Section 57-73-21(5), as amended.~~
- 304 (Reserved)